UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,450	05/10/2005	Michael Anthony Pugel	PU030231	4781

24498   7590   11/09/2010

Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton, NJ 08543-5312

EXAMINER
PARK, JEONG S

ART UNIT	PAPER NUMBER
2454	

MAIL DATE	DELIVERY MODE
11/09/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/534,450
Filing Date: May 10, 2005
Appellant(s): PUGEL ET AL.

Joel M. Fogelson
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 8/20/2010 appealing from the Office action

mailed 5/28/2009.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,543,051	Manson et al.	4-2003
6,112,074	Pinder, Ellis Arthur	8-2000
6,323,767	Gropper, Daniel R	11-2001
6,505,203	Adler, Robert M	1-2003
International Standard ISO/IEC 13818-1		12-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2.   Claims 1-5, 7-12, and 14-16 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Mason et al (hereinafter Mason)(U.S Patent No. 6,543,051 B1) in

view of Pinder (U.S Patent No. 6,112,074).

Regarding claims 1, 7 and 12, Manson teaches as follows:

A system or a method for inserting alert based information (alert message) into

broadcast programming over a program distribution network (digital subscriber

television system) comprising (a system for inputting emergency alert messages into a

digital subscriber television system, see, e.g., abstract);

A program distributor (application servers, 203 in figure 2) that transmits the

broadcast programming (television program) over the program distribution network

(broadband network)(MPEG content from the application servers is delivered to a

plurality of home communications terminals via a broadband network, see, e.g., col. 2,

line 57 to col. 3, line 8);

A network fabric (207, 211 and 220 in figure 2), coupled to the program

distributor (application servers, 203 in figure 2), used for transmitting data from the

program distributor (QAM modulators, 206 in figure 2, combine the MPEG formatted

information from the application servers for delivery as the in-band data, 207 in figure 2,

via the transmission medium, 220 in figure 2, see, e.g., col. 3, lines 13-16);

The program distributor (EAS receiver, 105 in figure 3, wherein the application

server 203 and EAS 105 and EAC 106 work together as the program distributor)

receives the alert based information (see, e.g., col. 4, lines 28-33) and converts the alert

from a first format comprising at least one SAME code (SAME (Specific Area Message

Encoding) is well-known as a subset of EAS, see, e.g., Gropper (U.S. Patent No.

6,323,767 B1) col. 1, lines 11-21) to a second format compatible with the programming

broadcasted via the network fabric (EAS 105 converts the text emergency alert

message into a text display file compatible with the digital subscriber system, see, e.g.,

col. 4, lines 52-58 and steps 406 and 410 in figure 4);

The program distributor inserts the converted alert into the broadcast

programming via the network fabric (the converted emergency alert message was sent

to the application server at step 414 in figure 4, see, e.g., col. 5, lines 5-6, wherein the

application servers distribute the converted emergency alert message with the television

program through QAM modulators, 206 in figure 2, with in-band delivery path, 207 in

figure 2, see, e.g., col. 3, lines 13-15);

Specifying a region to be alerted by identifying number of counties (the number

of counties field specifies the number of the destination counties for the digital

emergency alert message, see, e.g., col. 5, line 66 to col. 6, line 2); and

The converted alert is formatted into an MPEG transport packet (the converted

emergency alert message was sent to the application server at step 414 in figure 4, see,

e.g., col. 5, lines 5-6, wherein the application servers distribute the converted

emergency alert message with the television program through QAM modulators, 206 in

figure 2, with in-band delivery path, 207 in figure 2, see, e.g., col. 3, lines 13-15) where

the packet identifier (PID) in the header of the transport packet identifies the content of

the transport packet as being an alert message instead of being at least one of audio

information and video information (PID is a 13 bits field indicating the type of the data

stored in the packet payload, see, e.g., ISO/IEC 13818-1, Section 2.4.3.3). Therefore it would be obvious to indicate that the stored data is an alert message by using the well-known PID field in the MPEG transport packet.

Pinder further explicitly teaches as follows even though Manson implicitly teaches how to indicate the region to be alerted:

The radio communication system obtains event and locality information, and uses the locality information to transmit the event information to subscribers of that system potentially affected by the event (see, e.g., abstract and figure 3); and

Transmitting the alert information in the form of SAME (a NOAA station broadcasts weather and emergency event information in a digital message using a Specific Area Message Encoding (SAME) protocol, see, e.g., col. 2, lines 23-41 and figure 1).

It would be obvious to combine Manson with Pinder in order the system of Manson to leave uninterested geographic region undisturbed and avoid a "Boy Who Cried Wolf" problem for the affected geographic region.

Regarding claim 2, Manson teaches as follows:

The converted alert (generated from EAS and EAC, 105 and 106 in figure 3 respectively and sent to the application server, 203 in figure 2 and figure 3) and the programming broadcasted via the network fabric (transmission medium, 220 in figure 2) are capable of being rendered on at least one of: a display device and an audio based device (the converted message, which was sent from the application servers, 203 in

figure 2 and figure 3, and television program are transmitted to the TV, 256 in figure 2,

by the HCT, 250 in figure 2, for display to the subscriber, see, e.g., col. 3, lines 19-26).

Regarding claims 3, 8 and 14, Manson teaches as follows:

The alert message received is an audible based message that is converted into

data capable of being broadcasted over the network fabric for rendering on an audio

device (emergency alert message with an audio file is converted by EAS, 105 in figure

3, into an audio file compatible with the digital subscriber system which is TV, 256 in

figure 2, inherently comprises audio and display devices, see, e.g., col. 4, lines 60-65).

Regarding claims 4, 9 and 15, Manson teaches as follows:

The program distributor adds supplemental information (elements) to the alert

based information for broadcast; the supplemental information selected is based on

data in the alert based information (the elements associated with an emergency alert

message, see, e.g., col. 5, lines 23-29).

Regarding claims 5, 10 and 16, Manson teaches as follows:

The supplemental information selected is determined by the geographic region

corresponding to the alert based information (identification code of each county that is

to receive the digital emergency alert message in accordance with the FIPS code, see,

e.g., col. 6, lines 3-6) and the alert class (event code in table 2) of the alert based

information (see, e.g., col. 6, lines 18-28 and table 2).

Regarding claim 11, Manson teaches as follows:

The programming is broadcasted in an MPEG compatible data stream (see, e.g., col. 3, lines 9-11).

3.   Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mason et al (hereinafter Mason)(U.S Patent No. 6,543,051 B1) in view of Pinder (US Patent No. 6,112,074), and further in view of Adler (US Patent No. 6,505,203).

Regarding claim 6, Manson teaches as follows:

The message name field provides a unique emergency alert message (see, e.g., col. 5, lines 64-65); and

The event code field defines event codes (see, e.g., col. 6, lines 18-28 and table 2).

Therefore, Manson implicitly teaches to include any type of alert message upon request by adding an event code field with a proper message name field to identity the alert message as the alert related to a missing person.

Manson in view of Pinder do not explicitly teach the alert class is including an alert related to a missing person.

Adler teaches as follows:

A system to provide an intelligent and powerful missing person notification for specific geographical areas by being distributed instantaneously to reach a large segment of the community including TV and radio stations (see, e.g., col. 1, line 65 to col. 2, line 23).

It would have been obvious for one of ordinary skill in the art at the time of the

invention to combine Adler with Mason in view of Pinder to include an alert related to a

missing person in order to quickly distribute a missing person notification within the

specific geographical areas of the highest probability of containing the lost person.

(10) Response to Argument

Appellants' arguments and Examiner's responses as follows:

Appellants' argument:

Manson does not disclose that the distribution the alert message "with the

television program" using the "in-band delivery path", does not describe that "The

program distributor inserts the converted alert into the broadcast programming", and

does not produce a "converted alert-formatted into an MPEG transport packet" as

assumed and asserted by the Examiner in the rejection.

Examiner's response:

Manson teaches as follows:

Using MPEG transport packet (the digital subscriber television system is also

referred to as a Digital Broadband Delivery System (DBDS). **The digital subscriber**

television system uses MPEG transport streams for delivery of video, audio, and

data entertainment services. These services are delivered via a broadband network to a plurality of Home Communications Terminals (HCTs), such as the HCT 255 at subscriber location, see, e.g., col. 2, lines 56-62);

The MPEG formatted information is combined with other information (the other information can be the Emergency Alert Message)(the MPEG formatted video, audio, and control information is processed in digital headend. The information is then combined with **the other information specific to the digital subscriber television system, such as local programming and control information**, see, e.g., col. 3, lines 4-8);

In-band delivery path (in band delivery 207 in figure 3)(in the DBDS, video, audio, and control information are encoded into MPEG program streams, which are multiplexed to form MPEG transport streams. Each MPEG transport stream is assigned to a Quadrature Amplitude Modulation (QAM) modulator and modulated to a desired frequency. The QAM modulators combine the MPEG formatted information for delivery as **the in-band data** via the transmission medium to the subscriber location, see, e.g., col. 3, lines 9-16 and figure 2);

The application server (203 in figure 2 and 3) is a MPEG content source (in the digital subscriber television system, MPEG content source provides MPEG formatted video, audio and control information to the digital headend. **The MPEG content source** can be any of a variety of equipment such as a satellite receiver, a local encoder, or **an application server 203, see, e.g., col. 3, lines 1-4); and**

Distributing the alert message with the television program using the in-band delivery path (The existing EAS equipment, such as EAS receiver and Emergency Alert Controller (EAC), receives an emergency alert message. The EAS equipment **converts the message into the message format** (the message format should be the same as the message format of MPEG content provided by the application server in order to combine the alert message with the television program) **of the present invention and communicates a digital emergency alert message to the application server** (see, e.g., col. 4, lines 28-33), wherein the application server provides the digital emergency alert message with MPEG content to the subscriber location in digital subscriber television system (see, e.g., col. 2, line 66 to col. 3, line 18)).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained. Respectfully submitted,

/J. S. P./

Examiner, Art Unit 2454

November 3, 2010

/Larry Donaghue/

Primary Examiner, Art Unit 2454

Conferees:\

/Larry Donaghue/

Primary Examiner, Art Unit 2454

/Joseph E. Avellino/

Supervisory Patent Examiner, Art Unit 2454